

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
February 22, 2007
Lansing, Michigan

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present: Ted B. Wahby, Chair
 Linda Miller Atkinson, Vice Chair
 Maureen Miller Brosnan, Commissioner
 James R. Rosendall, Commissioner

Also Present: Kirk Steudle, Director
 Larry Tibbits, Chief Operations Officer
 Leon Hank, Chief Administrative Officer
 Frank E. Kelley, Commission Advisor
 Marneta Griffin, Commission Executive Assistant
 Jerry Jones, Commission Auditor, Office of Commission Audit
 Raymond Howd, Attorney General's Office, Transportation Division
 John Friend, Bureau Director, Highway Delivery
 John Polasek, Bureau Director, Highway Development
 Susan Mortel, Bureau Director, Transportation Planning
 Myron Frierson, Bureau Director, Finance and Administration
 Ron DeCook, Director, Office of Governmental Affairs
 Susan Gorski, Section Manager, Statewide Planning
 Greg Johnson, MDOT Metro Region Engineer

Excused: James S. Scalici, Commissioner

A list of those people who attended the meeting is attached to the official minutes.

Chair Wahby called the meeting to order at 9:05 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

Chair Wahby read a letter (dated February 14, 2007) sent by Commissioner Vincent J. Brennan in which he resigned from his appointment as Commissioner to the State Transportation Commission "due to increased demands of work".

I. COMMISSION BUSINESS

Commission Minutes

Chair Wahby entertained a motion for approval of the minutes of the State Transportation Commission meeting of January 25, 2007.

Moved by Commissioner Brosnan, with support from Commissioner Atkinson, to approve the minutes of the Commission meeting of January 25, 2007. Motion carried.

Chair Wahby entertained a motion for approval of the minutes of the State Transportation Commission workshop of January 25, 2007.

Moved by Commissioner Brosnan, with support from Commissioner Atkinson, to approve the minutes of the Commission workshop of January 25, 2007. Motion carried.

II. **DIRECTOR'S REPORT – DIRECTOR KIRK STEUDLE**

Director Steudle's presentation focused on, and was shared with, Susan Gorski, Section Manager, Statewide Planning; and Greg Johnson, Metro Region Engineer:

MI Transportation Plan Update: Moving Michigan Forward – Susan Gorski

This plan was kicked-off in December of 2005. It defines the challenges, vision, goals, decision principles, and strategies for transportation in Michigan. The focus is on our corridors of highest significance.

The needs and issues were identified through input from our Economic Advisory Group, stakeholder interviews and workshops, public meetings, household surveys, government-to-government consultations with Tribal Governments of Michigan, as well as web input.

The process produced a comprehensive picture of the state of the transportation system including defining corridors of significance, gaps between modes, gaps in service, and revenues, and regional differences.

We heard that the public wants greater transportation choices, and greater access to transportation facilities. This plan sets forth the decision principles necessary to advance the vision and move Michigan forward, recognizing limited resources of today.

The final draft plan document will be going out in March to the public for a 45-day review and comment period. The plan will be submitted to the Governor's office on June 1, 2007, followed by the plan being transmitted from the Governor's office to the Federal Highway Administration on June 28, 2007. The final plan must be adopted and submitted by July 1, 2007, to meet SAFETEA-LU requirements.

Ms. Gorski asked Chair Wahby if he wanted her to return to the Commission in March, through the regular meeting or a workshop, to provide more details on the content of the plan.

Chair Wahby suggested that Ms. Gorski work with the Director and Mr. Kelley to determine how much material would be involved. If it is a significant amount, it should probably be a workshop.

Ms. Gorski asked for questions.

Commissioner Brosnan thanked Ms. Gorski for bringing this deadline to the attention of the Commission.

No other comments or questions were forthcoming.

State Rail Freight Policy – Director Steudle

The Department is asking for revisions to the current Commission Policy (CP 10012). The existing State Rail Freight policy passed by the STC in 2002 is specifically intended to limit state acquisition of “at-risk” rail lines and encourage sale of current state-owned lines.

It states: “In accordance with 1976 Public Act (PA) 295, as amended, the Department of Transportation shall divest itself of the segments of state-owned rail property described in Section 474.60 of the act. The Department shall not enter into any agreement or arrangement where the state has or will have the potential to own or control additional rail facilities except where the facility in question is directly connected to an existing state-owned rail facility...

...Rail corridors not included in excluded from existing operating contracts shall be rail-banked for a period not to exceed three years. If after the rail-banking period has expired no reasonable or viable operation has developed, the corridor will be declared excess to the freight preservation program, salvaged if appropriate, or disposed of according to state statutes, State Transportation Commission policies, and Department procedures.”

Last fall the Governor announced a new trail initiative and charged the DNR with developing a plan to connect Michigan with non-motorized trails. MDOT was an active participant in developing the plan that DNR submitted to the Governor’s office last month.

The recommendations involve designating a “trunkline” system of trails, and addresses how MDOT and DNR will continue to work together to create that system. MDOT and DNR have also been coordinating on a regular basis in the purchase of inactive rail line and MDOT’s ability to purchase or hold lines is not as clear as it needs to be. The current policy was devised at a time when rail lines were being abandoned at an alarming rate and does not call out their potential for non-motorized use, although the administrative rule on this topic is very clear.

The governor’s office has not yet responded to the recommendations, but in order to be prepared, MDOT would like to revise the existing rail freight policy to ensure MDOT has the needed flexibility to acquire abandoned rail ROW for trail development.

Acquiring abandoned rail ROW for trails is something MDOT already does, on an ad hoc basis. It is not in conflict with the STC policy, but there is concern that the policy could be misinterpreted as it reads currently. Development of trails has in the past prompted NIMBY-style concern among the public, and will make MDOT’s actions more defensible. The changes we are proposing are merely to clarify the policy’s intent, which is to limit MDOT’s acquisition of **active** rail lines.

The NIMBY-ism is typically overcome once the trail is in place and people see what an asset it can be. Rail-Trails have been demonstrated to provide numerous economic and health benefits.

Previous State Long Range Plans have also included recommendations to convert abandoned rail ROW to bike/pedestrian trails to retain the corridor's potential for rail use. This direction is also consistent with the integration of transportation modes that is described in MDOT's mission and vision.

A larger presentation will be made during the March 29th Commission meeting, when we will ask for approval of the revisions to this policy. In the mean time, Director Steudle asked that Commissioners bring their comments and/or questions to the attention of the Department.

Director Steudle asked for questions.

Chair Wahby commented that he has gone through this in the last 2-3 years with Rails-to-Trails in Macomb County—working with MDOT and the County. There was resistance from communities within the county, but things worked out well.

No other comments or questions were forthcoming.

“Dodge the Lodge” – Greg Johnson

This is a major project in the Metro region scheduled for construction from February 2007 through November 2007. MDOT will reconstruct/rehabilitate 14 miles of pavement, repair/replace 50 bridges, upgrade utilities and replace freeway signs on M-10. Interim start and completion dates will be used to keep sections of the freeway open where and when possible. The project limits on this \$133 million investment are Lahser Road in Southfield and Jefferson Avenue in Detroit.

The fastest and safest way to build this project is a total closure of M-10 between the Davison Freeway (M-8) and Lahser Road, allowing work to be completed in one construction season. Otherwise, the project would take two or more years to complete, with only one lane open in each direction, resulting in gridlock. Maintaining two lanes of traffic in each direction would double the cost of the project.

MDOT has done an extensive campaign to keep everyone informed of what the alternate routes are. The project impacts three segments of customers: commuters that take the Lodge every day, residents of the neighborhoods where bridges above them will be closed, and the businesses that lay along the Lodge freeway.

MDOT sent out letters to 60 different major stakeholders offering an opportunity to meet with MDOT staff for a detailed explanation of the impacts of the project. We held two public meetings and we were well received. We have a great deal of signing out there; real-time delays signing to let people know how much time it's going to take to get from point A to point B.

There are multiple benefits of this project. New pavement will mean reduced roadway maintenance, geometric improvements (new signing and new freeway lighting) will help to provide a safer roadway for the motoring public, drainage improvements will reduce the likely-hood of flooding on the freeway, surface coating of retaining walls, bridges and pump stations will provide a clean, unified appearance for the freeway corridor, replacement trees throughout the corridor and special landscaping on the freeway slopes near 10 Mile and Evergreen Roads will help maintain the natural look of existing green spaces, and new right-of-way fence and service drive guardrail will enhance the appearance of MDOT facilities as viewed from the service drives and local roadways.

Chair Wahby asked, regarding the \$133 million and because of the complexity of the project, if there are incentives built in for construction target dates that are met early.

Mr. Johnson responded that there are approximately \$4.5 million in incentives spread over the three contracts. Right now what we're shooting for is completion date (open to traffic in the corridor) of Labor Day. We are using A+B Contracting where the actual contractor was selected not only on his bid prices, but also on the time that he said he could get it done. The contractor submitted a bid on the piece in Southfield of 90 days to get it done. If he gets it done in 90 days, once he starts, then he gets zero incentive. If he gets it done a day early, it's \$50,000 per day of an incentive.

Commissioner Brosnan asked how geared up and ready the IT staff is to meet the challenge to provide the real-time delay information along the road.

Mr. Johnson answered that the MITS Center staff are right at the forefront of this. They have been a part of the planning to coordinate messages on signs, to know when key events are to get people to those routes. We have real-time monitors are in place along the freeway to check the speed of cars at certain locations and relay it back to some of our monitors at other locations.

Director Steudle interjected that people living in southeast Michigan will begin hearing announcements on local radio stations about how to maneuver around the Lodge and advising people how to get downtown, especially with the big upcoming events.

No other questions were forthcoming.

III. **OVERSIGHT**

Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson stated that information on 37 agreements was given for review. Pending any questions, Mr. Frierson asked for approval of Exhibit A.

No questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Atkinson to approve Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Myron Frierson

Mr. Frierson gave a brief re-cap of the February 2007 bid letting activities: 46 State projects with total engineers' estimates of \$52.4 million were let. The low bids announced on these projects totaled \$48.9 million. The average low bid of all 46 State projects was \$1.1 million. There are two State projects that are classified as TBA, with low bids totaling \$1.4 million. All bids were rejected on one project, with the low bid of \$3.9 million. Twenty-seven projects let with total low bids of \$38.2 million had warranties. Electronic proposals were provided for 45 of the State projects let. In February 2006, 50 State projects were let with low bids totaling \$160.0 million, an average of \$3.2 million.

As of October 23, 2006, it was estimated that 407 State projects with construction costs totaling \$905.8 million would be let during the 2007 fiscal year. Through February of this year, 201 State items with engineers' estimates of \$482.4 million have been let with low bids totaling \$472.2 million. Through February 2007, 53.3% of the total amounts projected to be let have been let. Through February 2006, 215 projects with total engineers' estimates of \$372.2 million were let. The low bids totaled \$353.6 million, which represented 37% of the total dollar amount let during FY 2006.

The total number of bids submitted for this letting was 514, of which 228 were submitted for State projects. There was an average of 6.3 bids submitted for each project that was let, and an average of 5 bids for each State project. Of the 425 contractors eligible to submit bids, 167, or 39.3%, submitted bids for this letting.

In addition to the State projects let, three of the Local program area items let included projects in the Jobs Today Jobs Tomorrow program.

There are 71 State projects with engineers' estimates totaling \$120.1 million scheduled to be let on March 2, 2007. Thirty of these items have warranties. Of all the items scheduled to be let, six include work in the Jobs Today Jobs Tomorrow program.

Pending any questions, Mr. Frierson asked for approval of Exhibit A-1.

No questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Atkinson and supported by Commissioner Rosendall to approve the March bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – John Polasek

Mr. Polasek reported on 2 projects (1 State, 1 Local) that were at least 10% over the engineers' estimates which are accompanied by a justification memo. Pending any questions, Mr. Polasek asked for approval of Exhibit A-2.

Commissioner Atkinson asked, regarding Project 84913-79621 (Proposal 0702059; 12.82 miles of microsurfacing on M-120...in the village of Hesperia, Muskegon, Newaygo, and Oceana Counties), if the reason why this project cannot commence until the first week in September has to do with seasonal traffic.

Mr. Polasek answered that he didn't have all the information in front of him, but it is usually because of various reasons; i.e., festivals, availability.

Commissioner Atkinson went on to say that it appears that the fact the "project cannot commence until the first week in September and must be completed in fifteen working days", is one explanation for the difference. Further, she assumes that because of its location this has something to do with a seasonal requirement.

Mr. Polasek responded that you try to do microsurfacing during cooler weather. We have had situations in past lettings where we have experienced increases because of letting a project real early in the year and not having it start until later.

No other questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Atkinson and supported by Commissioner Brosnan to approve Exhibit A-2. Motion carried on a unanimous voice vote.

There is no Exhibit A-3 for this month.

Bid Letting Not Pre-Approved (Exhibit A-4) – Myron Frierson

Mr. Frierson stated that this exhibit is for approval of 1 State project that was not included in the February 2, 2007 Pre-Approval List.

Commissioner Rosendall asked if there was a time period for withdrawing a bid after a bid was made.

Mr. Frierson answered that contractors are required to submit a bid guarantee based on the value of the bid—in this case it would be \$50,000. If they withdraw their bid, they are subject to forfeit (or pay) that bid guarantee. There are some exceptions in our Standard Specifications where that if the reason for the withdrawal was due to a substantial hardship on the company or some type of irregularity associated with the project, there may be grounds to not make the contractor pay the bid guarantee.

Chair Wahby interjected that if you look at the bid process, they were way under everybody.

Commissioner Rosendall stated that he agreed with that but it is only \$65,000 off the engineers' estimate.

Mr. Frierson responded that, again, the contractor has submitted some reason to the department in terms of why they were withdrawing. We have requested that they pay; however, we are going to go through an appeals process to hear and evaluate their rationale. We take this very seriously in terms of when you submit a bid, we expect you to move forward or there are consequences.

Commissioner Atkinson asked, with this being the same project we had the justification memo for in Exhibit A-2, if the differences (“...over the engineer’s estimate were for constructing the cofferdam and removal of the structure. ...over the engineer’s estimate because of the complex work and multiple stage construction.”) explained the withdrawal of the low bidder.

Mr. Frierson answered no, not necessarily. Again, the low bidder will have to submit their full justification and we have not gotten that yet.

No other questions were forthcoming.

Motion was made by Commissioner Brosnan and supported by Commissioner Rosendall to accept Exhibit A-4. The motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend has 11 MDOT projects and 6 Local Agency projects before the Commission.

Mr. Friend drew attention to a change in Item Extra 2007-32 (2,047 meters of interchange construction...280 meters of reconstruction on American Drive, 288 meters of reconstruction on Center Road...623 meters of bridge reconstruction...1,537 meters of road reconstruction...in the city of Southfield, Oakland County)—there is no change to the overall dollars requested, although there was a tabulation error above that that was substituted.

Mr. Friend walked on one project, Item Overrun 2007-12 (1.76 miles of concrete pavement repair, diamond grinding ... on US-12 (Michigan Avenue) ... in the cities of Wayne and Westland, Wayne County). Because of the significance of the impact of this project in terms of the work done last year by the contractor, Greg Johnson from the Metro Region was present to give further explanation and answer any questions the Commissioners had.

Mr. Johnson, regarding this project, added that this project is actually a precursor to a project that is going to occur on US-12 in the city of Wayne. This was done last year to make repairs to the pavement in the eastbound portion; the westbound portion will be fully under construction this coming year. We wanted to make sure that we repaired the entire pavement properly so we would not have the closed lanes during construction—this is the reason for the overrun. The reason for the lateness in getting this in to the Commission is being addressed internally with staff. That office was busy last year with some M-14 projects, but that is not an excuse for them not getting this contract modification to the Commission earlier.

Mr. Friend asked for questions and approval of Exhibit B; no questions were forthcoming.

Chair Wahby entertained a motion. Motion was made by Commissioner Rosendall and supported by Commissioner Brosnan to approve Exhibit B. Motion carried on a unanimous voice vote.

Mr. Friend made mention of the information sent to the Commissioners addressing the concerns on price indexing that was the topic of the February Commission workshop.

Chair Wahby stated that the Commission wants to allot the timeframe for the department to gather all the information requested. He is also encouraging the Commissioners to review this information and pose questions and recommendations they feel is necessary via the Commission Office, regarding additional information they may want. All of this can then be rolled into one final report.

Commissioner Atkinson thanked Mr. Friend for putting this initial information together. She then asked, regarding item two (no written records of files could be located), if the minutes of the Commission for the time were included in that—have they been examined.

Mr. Friend responded that not to his awareness—he had not thought of doing that. Most of the internal review he did was with the Construction Technology Division. He added that he would go back and review prior minutes from the late 1980's/early 1990's and get back to the Commission with his findings.

No other comments or questions were forthcoming.

IV. **PUBLIC COMMENTS**

Chair Wahby asked if any member of the audience wanted to address the Commission.

Mr. Dave Allen, representing St. Joseph County Economic Development Corporation (EDC), urged the Commission to continue addressing issues concerning the southern section of US-131 (south Kalamazoo goes to a 4-lane highway with unlimited access; south of Three Rivers in St. Joseph County goes to a 2-lane road). During his tenure as St. Joseph County EDC Director for three years, they lost two significant projects in part because of the highway situation—having to cross through traffic lights, having to go over railroad crossing with concern for the spurs. Both companies ended up relocating in Indiana.

No other comments were forthcoming.

Chair Wahby asked if any Commissioner wanted to address the Commission.

No comments were forthcoming.

ADJOURNMENT

There being no further business to come before the Commission, Chair Wahby declared the meeting adjourned at 10:00 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on March 29, 2007, in the 1st floor Bureau of Aeronautics Auditorium in Lansing, Michigan, beginning with a **joint** meeting with the Aeronautics Commission commencing at the hour of 9:00 a.m.; followed by the **regular** Transportation Commission meeting in the 2nd floor Conference Room, commencing at the hour of 10:00 a.m.

Frank E. Kelley
Commission Advisor